

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 1 is currently being amended.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 2 and 4-24 are now pending in this application.

IDS

The Office states that one of the references cited in the IDS is not in English and has not been considered. However, the absence of a translation or an English-language counterpart document does not relieve the PTO from its duty to consider any submitted document (37 CFR § 1.98 and MPEP § 609). A courtesy copy of the abstract of DE 10054633, acquired from the esp@cenet website, has been filed with this response. Accordingly, Applicants request that the reference be considered.

Claim Rejections under 35 U.S.C. §103

Claims 1, 2 and 4-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sebetciouglu et al. (Sebetciouglu – US 5,719,918) in view of Jacobson (US 2003/0004876 A1) and Balngalore et al. (US 2004/0122674). In response, without agreeing or acquiescing to the rejection, Applicant have amended independent claim 1. Further, Applicants respectfully traverse the rejection for at least the reasons set forth below.

Applicants rely on MPEP § 2143.03, which requires that all words in a claim must be considered in judging the patentability of that claim against the prior art. Here, the cited references do not identically disclose, teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Independent claim 1 is directed to a “transaction device” comprising, in addition to other elements, “an apparatus capable of setting up a wireless communication network with one or more mobile terminals, based on a connection protocol, as well as a communication with the station, wherein the apparatus is configured with an adaptable physical perimeter selected to cover a determined zone, close to the station,” (Emphasis added).

The claimed device remotely processes one part of a transaction (identification check for example) via the claimed background function and then completes said transaction when a user is at the service delivery machine. The preprocessing of the transaction can be initiated only when the user is located within a determined perimeter around the service delivery machine and the transaction can be completed only when the user is at the machine itself. The determined perimeter and the service/transaction are linked together. For example, when the invention is carried out with an ATM, the perimeter has to be chosen by taking the following into account: (1) the distance that can be traveled by the user between initiating of the transaction and arriving at the delivery cash automate and (2) the proximity of another ATM, etc. Accordingly, the perimeter must be adaptable to cover the zone/area desired.

In contrast, the cited references do not disclose, teach or suggest each and every element recited in independent claim 1.

The Office Action acknowledges that Sebetciouglu fails to disclose an apparatus configured with an adaptable perimeter selected to cover a determined zone close to the station. *See* Office Action at p. 4. To cure the deficiencies of Sebetciouglu, the Office Action relies on Jacobson and Bangalore. This contention is respectfully traversed.

In particular, it is submitted that secondary citation to Jacobson and/or Bangalore does not remedy the conceded deficiency in the primary citation to Sebetciouglu. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Sebetciouglu and Jacobson and/or Bangalore is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action asserts that paragraphs [0100]-[0101] and [0143] correspond to the limitation “the apparatus is configured with an adaptable perimeter selected to cover a

determined zone, close to the station.” Paragraph [0101] explains that in a microcellular system, a base station transmits and receives signals from mobile terminals within a small radius of the base station. However, the cellular base station is not the same as the claimed apparatus and station capable of carrying out a transaction. Further, paragraph [0143] discloses the use of a short range radio communication protocol such as Bluetooth between the service unit 170 and an unspecified electric device. However, the unspecified electric device is not a mobile terminal as claimed.

Bangalore discloses a client device 120. However, the client device 120 of Bangalore is not configured with an adaptable physical perimeter selected to cover a determined zone, close to the station. Instead, Bangalore discloses a virtual perimeter which is only defined in the client device 120. Further, the virtual perimeter of Bangalore does not represent an area in which a communication protocol can be implemented. Accordingly, Bangalore fails to identically disclose, teach or suggest all the claim limitations as claimed in claim 1.

In addition, neither Jacobson nor Bangalore suggest that it would be appropriate to modify Sebetcioglu by Jacobson nor Bangalore. Furthermore, it would not have been obvious to one skilled in the art to make such a combination. In a system resulting from such a combination, it would not be possible to exclude users based on the distance of the users from the station which has to carry out the transaction, nor to automatically initiate a transaction when a user penetrates within a determined physical zone. Accordingly, for at least this reason, the rejection as to claim 1, concerning Jacobson and Bangalore, should be withdrawn.

When determining whether a claim is obvious, an examiner must make “a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art.” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Here, the cited references fail to disclose each and every limitation in as complete detail as is contained in amended independent claim 1.

Claims 2 and 4-24 depend from independent claim 1 and should be allowed for at least the reasons set forth above without regard to further patentable limitations contained therein.

If this rejection of the claims is maintained, the examiner is respectfully requested to point out where the above-mentioned features are disclosed in the cited references.

Conclusion

Applicants believe that the present application is now in condition for allowance.
Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 1/28/11

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Method for controlling access to goods or service using mobile telephony for payment authentication in which an authentication code is issued to release the goods that can be used only once to prevent fraud

Patent number: DE10054633 (A1)

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Applicant(s): CALL A BIKE MOBILITAETSSYSTEME [DE] +

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DE10054633 (C2)

Cited documents:

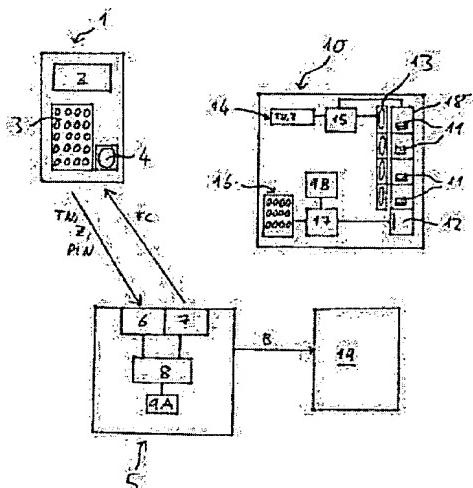
DE19528203 (C1)

DE19809043 (A1)

DE4134410 (A1)

Abstract of DE 10054633 (A1)

Mobile phone (1) communicates with a central unit (5) and a release device (10) for access to goods or services. The phone transmits authentication data to the central unit, and uses the data to carry out authentication of user. If authentication is successful, a user release code (FC) is sent back with which goods or services can be purchased. The release code is altered by the release device (10) after goods release so that it can no longer be used. An Independent claim is made for a system for controlling access and purchasing of goods or services based on a mobile telephony communications system.



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